

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

DEAN SCOTT MCPHERSON, JR.,

Plaintiff,

v.

JESSEE HELTON,

Defendant.

No. 2:16-CV-00249-JRG-CLC

MEMORANDUM OPINION

This is a pro se prisoner's complaint filed under 42 U.S.C. § 1983. For the reasons set forth below, this action will be **DISMISSED** without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

On July 11, 2018, the Court ordered screening Plaintiff's complaint, dismissing all Defendants except Defendant Helton, and providing that Plaintiff had twenty days to return a completed service packet for Defendant Helton [Doc. 6]. After Plaintiff subsequently filed a letter and a notice of address, however, on January 29, 2019, Plaintiff filed a motion for an extension of time to serve Defendant Helton based on his assertion that Defendant Helton no longer works in the Grainger County Sheriff's Office [Doc. 9]. For good cause shown therein, on April 1, 2019, the Court granted Plaintiff's motion and directed the Sheriff of Grainger County to provide Defendant Helton's last known address under seal and the Clerk to issue a summons for Defendant Helton using this address [Doc. 12] and he did so [Docs. 14 and 15]. On May 1, 2019, however, the summons for Defendant Helton sent to this last known address was returned unexecuted [Doc. 16].

Accordingly, on May 7, 2019, the Court entered an order requiring the United States Marshals Service to make reasonable efforts to locate Defendant Helton and warning Plaintiff that if the Marshals Service was unable to locate Defendant Helton, this action would be dismissed pursuant to Rule 4(m) [Doc. 17 at 1–2]. The Marshals Service complied with this order but was unable to locate Defendant Helton, however, as it found eight individuals named Jesse Helton in Tennessee, no forwarding address for Defendant Helton, and that the address provided for Defendant Helton was invalid [Doc. 18 at 2].

Thus, despite the best efforts of Plaintiff, the Court, and the Marshals Service, Defendant Helton has not been served with process and the Court will **DISMISS** this action without prejudice as to Defendant Helton pursuant to Rule 4(m). The Court **CERTIFIES** that any appeal from this order would not be taken in good faith.

AN APPROPRIATE ORDER WILL ENTER.

ENTER:

s/J. RONNIE GREER
UNITED STATES DISTRICT JUDGE